

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 12th day of June at 8:00 P.M., and there were

PRESENT:            MARK AQUINO, MEMBER  
  
                         JAMES PERRY, MEMBER  
  
                         LAWRENCE PIGNATARO, MEMBER  
  
                         RICHARD QUINN, MEMBER  
  
                         ARLIE SCHWAN, MEMBER  
  
                         ROBERT THILL, MEMBER  
  
                         JEFFREY LEHRBACH, CHAIRMAN

ABSENT:            NONE

ALSO PRESENT:    JOHANNA M. COLEMAN, TOWN CLERK  
  
                         JEFFREY SIMME, BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

**PETITION OF ROBERT G. & MICHELE L. KILGORE**

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Robert G. & Michele L. Kilgore, 6 Westbury Lane, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a four foot, six inch [4',6"] high fence in a required open space area on premises owned by the petitioners at 6 Westbury Lane, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Westbury Lane with an exterior side yard [considered a front yard equivalent] fronting on Stone Hedge Drive. The petitioners propose to erect a four foot, six inch [4',6"] high fence within the required open space area of the exterior side yard fronting on Stone Hedge Drive.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore, requests a one foot, six inch [1',6"] fence height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Robert Kilgore, petitioner  
6 Westbury Lane  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF ROBERT G. & MICHELE L. KILGORE**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Robert G. and Michele L. Kilgore and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 12th day of June 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicants are the present owners of the premises in question.

**WHEREAS**, the property for which the applicants are petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants, namely the enclosure of an in ground swimming pool, cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial; this is the minimum necessary to comply with New York State Law and is only 1.5 feet more than allowed by the Code of the Town of Lancaster.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- that any fence which may be constructed in the future must be a see through fence which includes chain link and ornamental wrought iron type fences.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

June 12, 2008

**PETITION OF RAYMOND K. UNGER:**

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Raymond K. Unger, 417 Erie Street, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a 1,280 square foot addition to an existing garage on premises owned by the petitioner at 417 Erie Street, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the existing garage is 784 square feet. The total square feet of the proposed garage addition when added to the existing garage square footage is 2,064 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 1,314 square foot accessory use area variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Raymond Unger, petitioner  
417 Erie Street  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF RAYMOND K. UNGER**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. PERRY  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Raymond K. Unger and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 12th day of June 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within an Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

**WHEREAS**, the Erie County Department of Environment and Planning commented on the proposed zoning action as follows:

"This action appears to be a Type II action not subject to State Environmental Quality Review (SEQR).

1. The plan shows no color specification for siding and roof on such a large garage (triple the allowed size) within view of the cemetery. Aesthetically/visually compatible landscaping and building material colors should be required due to its location in full view of the cemetery.
2. If any toxic materials (automotive, pesticides, herbicides, etc.) will be stored within the structure, they must be properly contained so as not to enter storm or sanitary sewers or natural drainage ways and the groundwater."

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought, accessory structures are common in this neighborhood.

That no detriment to nearby properties will be created by the granting of the area variance relief sought. It is noted that the neighbors contiguous to the property are in favor of the variance grant and there is another larger variance which has been granted to the east of the subject property.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, however the lot is large and deep.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED IN CASES THAT ARE GRANTED OR CONSIDERED IN CASES THAT ARE DENIED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- that no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises.
- that the exterior siding shall match the shingles on the residence.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

June 12, 2008

**PETITION OF KENNETH & TRACY BREINLINGER:**

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Kenneth and Tracy Breinlinger, 8 Hillside Parkway, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a four [4] foot high fence in a required open space area on premises owned by the petitioners at 8 Hillside Parkway, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Hillside Parkway with an exterior side yard [considered a front yard equivalent] fronting on Hill Valley Drive. The petitioners propose to erect a four [4] foot high fence within the required open space area of the exterior side yard fronting on Hill Valley Drive.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore, request a one [1] foot fence height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Kenneth Breinlinger, petitioner 8 Hillside Parkway Lancaster, New York 14086	Proponent
Tracy Breinlinger, petitioner 8 Hillside Parkway Lancaster, New York	Proponent



**IN THE MATTER OF THE PETITION OF KENNETH & TRACY BREINLINGER**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. SCHWAN, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. PIGNATARO  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Kenneth & Tracy Breinlinger and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 12th day of June 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicants are the present owners of the premises in question.

**WHEREAS**, the property for which the applicants are petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- that any fence shall be a see through/open air fence.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

June 12, 2008

**PETITION OF PAUL & DEBRA GRZYBOWSKI:**

THE 4th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Paul and Debra Grzybowski, 503 Aurora Street, Lancaster, New York 14086 for one [1] variance for the purpose of constructing an attached garage to a private residence owned by the petitioners at 503 Aurora Street, Lancaster New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Aurora Street with an exterior side yard [considered a front yard equivalent] fronting on Willow Ridge Lane. The location of the proposed addition will result in an eight [8] foot north exterior side yard set back on Willow Ridge Lane.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a thirty five [35] foot exterior side yard set back on Willow Ridge Lane. The petitioners, therefore, request a twenty seven [27] foot north exterior side yard set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Paul Grzybowski, petitioner 503 Aurora Street Lancaster, New York 14086	Proponent
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Ed Grzybowski 503 Aurora Street Lancaster, New York 14086	Proponent
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**IN THE MATTER OF THE PETITION OF PAUL & DEBRA GRZYBOWSKI**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. PERRY  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Paul & Debra Grzybowski and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 12th day of June 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has requested written clarification from the Building Inspector of the Town of Lancaster regarding the number and type of variances required..

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster, with the concurrence of the petitioner, agrees that an adjournment of this hearing is in the best interest of the Town of Lancaster and the petitioner.

**NOW, THEREFORE, BE IT**

**RESOLVED** that this hearing be adjourned to allow for further testimony and evidence to be presented as well as a written opinion and clarification from the Building Inspector of the Town of Lancaster.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution to adjourn the hearing was thereupon **ADOPTED**.

June 12, 2008

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 9:28 P.M.

Signed \_\_\_\_\_  
Johanna M. Coleman, Town Clerk and  
Clerk, Zoning Board of Appeals  
Dated: June 12, 2008

